

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

MAREN MAGGIO,

Plaintiff,

v.

**OREGON HEALTH & SCIENCE
UNIVERSITY, WAYNE MONFIES,
RUTH BEYER, JAMES A. CARLSON,
DANNY JACOBS, CHAD PAULSON,
STEVE ZIKA, STACY CHAMBERLAIN,
PRASHANT DUBEY, and DOES 1 and 2,**

Defendants.

Case No. 3:23-cv-116-JR

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Jolie A. Russo issued Findings and Recommendation in this case on June 1, 2023. ECF 12. Judge Russo recommended that this Court grant Defendants' motion to dismiss Plaintiff's second and third claims for relief and Plaintiff's separate request for declaratory relief. *Id.* The Court agrees with Judge Russo's recommendation.

Under the Federal Magistrates Act (Act), the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C.

§ 636(b)(1). If a party objects to a magistrate judge's findings and recommendations, "the court

shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; *see also* Fed. R. Civ. P. 72(b)(3). For those portions of a magistrate judge’s findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge’s findings and recommendations if objection is made, “but not otherwise”). Although in the absence of objections no review is required, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the Court review the magistrate judge’s recommendations for “clear error on the face of the record.”

Plaintiff objected and Defendants responded. The Court has reviewed *de novo* Defendants’ motion to dismiss and has considered Plaintiff’s objections and Defendants’ response. The Court ADOPTS the Findings and Recommendation (ECF 12) and GRANTS Defendants’ Motion to Dismiss (ECF 4). If Plaintiff believes she can cure any of the deficiencies identified in the Findings and Recommendation, Plaintiff may file an amended complaint within two weeks of the date of this Order.

IT IS SO ORDERED.

DATED this 20th day of September, 2023.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge